C. B. (II) No. 79

COMMITTEE ON SUBORDINATE LEGISLATION

FOURTH REPORT

(Second Lok Sabha)

Presented on the 19th December, 1958

LOK SABHA SECRETARIAT
NEW DELHI
December, 1958

Price Re. 0.70 n.P.

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COMPOSITION OF THE COMMITTEE ON SUBORDINATE LEGISLATION 1958-59

1. Sardar Hukam Singh—*Chairman*
2. Shri Phani Gopal Sen
3. Shri Ajit Singh Sarhadi
4. Shri K. S. Ramaswamy
5. Shri Sinhasan Singh
6. Shri Jitendra Nath Lahiri
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13. Shri Thakur Das Malhotra
14. Shri Kanhaiyalal Bherulal Malvia
15. Shri T. C. N. Menon.

SECRETARIAT

Shri N. N. Mallya—*Deputy Secretary.*
Shri A. L. Rai—*Under Secretary.*

I

INTRODUCTION

I, the Chairman of the Committee on Subordinate Legislation, having been authorised by the Committee to present the report on their behalf, present this their Fourth Report.

2. Subsequent to the presentation of the Third Report the Committee have held four sittings and considered 517 new 'orders'. The Committee also considered the 'orders' that were pending final disposal at the time of presentation of the Third Report. At the sitting held on the 17th December, 1958 the Committee considered and passed this Report.

3. Observations of the Committee on matters of special interest made during the course of their examination of the 'orders', matters which required to be brought to the notice of the House as well as the recommendations of the Committee have been included in this Report.

II

THE ALL INDIA INSTITUTE OF MEDICAL SCIENCES RULES, 1958 (G.S.R. 135 OF 1958).

4. The All India Institute of Medical Sciences (Nomination) Rules, 1956 were issued under Section 28 of the All India Institute of Medical Sciences Act, 1956 to provide for the nomination of representatives of the medical faculties of Indian Universities on the Institute under Sec. 4(f) of that Act. The Rules provided that the Central Government shall nominate four persons elected by the medical faculties.

5. Subsequently the All India Institute of Medical Sciences Rules, 1958 were framed which superseded the earlier rules. Rule 3 of these rules provided that the Central Government may *nominate* four persons elected by the medical faculties. The following two points were referred to the Ministry of Health for clarification in this connection:—

(i) What were the reasons for using the word 'may' instead of 'shall' in the later rules.

(ii) It was not clear whether the earlier rules were abrogated or not as there was no provision in the subsequent rules to that effect.

6. The Ministry stated that the word 'may' was used in order to provide for any contingency where the Government had to exercise discretion in the nomination of members. The Ministry, however, added that there was no objection to changing the word 'may' into 'shall'.

7. The Ministry also stated that the earlier rules were superseded by subsequent rules but due to oversight necessary provision for their repeal was not made in the later rules. A notification would be issued in this regard in consultation with the Ministry of Law.

8. The Committee note that the rule 3 has since been amended and the earlier rules have been repealed (*vide* G.S.R. 633 of 1958).

III

THE HONEY GRADING AND MARKING RULES, 1957 (S.O. 91 OF 1958).

9. The Honey Grading and Marking Rules, 1955, were issued under Section 3 of the Agricultural Produce (Grading and Marking) Act, 1937. The grade designation mark (Agmark) for honey given in Schedule III to the said rules contained the legend 'Produce of India' and its Hindi equivalent as "Bharat-ki-Utpatti".

10. The Hindi legend was not a happy translation of 'Produce of India' as it could mean 'Production of India' or 'Birth of India'. This was brought to the notice of the Ministry of Food and Agriculture.

11. The Committee note that the Ministry have since decided to adopt the legend 'भारतीय उत्पाद' (Bhartiya Utpad) as the Hindi equivalent of "Produce of India".

IV

THE COAL MINES REGULATIONS, 1957 (S.R.O. 3419 OF 1957)

Regulation 8(*i*) (*a*):

12. Provisio to the Regulation 8 (i) (a) of the Coal Mines Regulations, 1957, which were issued under section 57 of the Mines Act, 1952 required that in case the owner of a coal mine *was a member of a firm or other association of individuals* he shall intimate to the Chief Inspector and the Regional Inspector any change, if it occurs, in the membership of such a firm or association. This requirement appeared to be of an unusual nature inasmuch as an owner of a Mine might be a member of a number of associations, a club, a company, a philanthropic society etc., which had no concern with the working of coal mines.

13. On a reference being made, the Ministry of Labour and Employment have stated that the intention is that if the owner of a mine is a firm or any other association the change in the membership thereof should be communicated to the Chief Inspector even though the name of the firm or association remains the same. The Ministry have assured to amend the regulation accordingly.

The Committee note the Ministry's assurance.

Regulation 11:

14. Regulation 11 provides for the constitution of a Board of Mining Examinations to grant various certificates under the said regulations. But the procedure for the working of the Board *viz.*, quorum, mode of arriving at a final decision etc., which is normally provided in cases of statutory bodies was not laid down.

15. The Ministry of Labour and Employment have stated that under regulation 13(4), the Board is competent to make bye-laws "as to the conduct of examinations and to the granting of certificates of competency and of fitness as required under the regulations". The procedure for the working of the Board, *viz.* quorum, mode of arriving at final decisions etc., could also be appropriately specified in the bye-laws. To enable that being done, the Ministry intimated that regulation 13(4) would be suitably amplified.

The Committee note the Ministry's reply.

V

AMENDMENT TO THE FERTILIZER (CONTROL) ORDER, 1957 (G.S.R. 358 OF 1958).

16. G.S.R. 358 of 1958 issued under section 3 of the Essential Commodities Act, 1955 amended clause 22 of the Fertilizer Control Order, 1957, enabling the State Governments to fix different fees for different classes of dealers for the grant of duplicate licences or duplicate certificates of registration. As it appeared to be discriminatory the Ministry of Food and Agriculture were asked the principle governing it or the reason for this provision. The Ministry explained that though the amendment might suggest the possibility of fixing different fees for different classes of dealers for issue of duplicate licences or certificates, the intention was to fix only one rate of fees for all such cases. in a State.

17. The Committee are of the opinion that as it is possible to charge different fees for duplicate licences etc. from different classes of dealers the relevant clause ought to be amended to make the intention clear.

VI

AMENDMENT IN THE REGISTRATION OF NEWSPAPERS (CENTRAL) RULES, 1956 (G.S.R. 16 OF 1958).

18. G.S.R. 16 of 1958, by amending rule 9 of the Registration of Newspapers (Central) Rules, 1956 issued under the Press and

Registration of Books Act, 1867 raised the fee for furnishing extracts from the Press Register required to be maintained by the Registrar of Newspapers for India from rupee one to rupees five.

19. As the fee should be proportionate to the quantum of services rendered, the Ministry of Information and Broadcasting were asked to intimate the circumstances which had necessitated this rise. The Ministry have stated that the existing fee of rupee one is not commensurate with the labour involved in collecting, computing and maintaining the particulars relating to newspapers in the country and moreover it is not adequate to prevent frivolous requests for extracts.

20. The Committee feel that the explanation given by the Ministry is satisfactory and therefore no further action is necessary.

VII

THE DELHI MUNICIPAL CORPORATION (ELECTION OF COUNCILLORS) RULES, 1958

21. The Delhi Municipal Corporation (Election of Councillors) Rules, 1958 were made under section 31 of the Delhi Municipal Corporation Act, 1957.

22. Rule 88 of the said rules provided that no civil court shall have jurisdiction to question the legality of any action taken or of any decision given by the Commissioner, the Returning Officer or the Presiding Officer in connection with an election.

23. It was felt that rule 88 was contrary to the recommendation of the Committee where the Committee on a similar point had observed that if it was necessary to oust the jurisdiction of courts with regard to some technical defects or routine matters there should be a clear authority from Parliament itself to that effect (para 7 of their Second Report, First Lok Sabha).

24. The Ministry of Home Affairs, whose attention was invited to the recommendation of the Committee replied that sub-section (1) of section 31 of the Delhi Municipal Corporation Act conferred extensive powers on the Central Government to make rules in respect of elections and in view of provisions contained in sections 15 and 17 of the Act, the scope of rule 88 of the Delhi Municipal Corporation (Election of Councillors) Rules, 1958 was narrowed down to the ousting of jurisdiction of civil courts in certain administrative matters.

25. The Committee feel that the provisions of rule 88 ought to have been incorporated in the parent Act as has been done in the case of the Representation of the People Act, 1951 (*vide* Section 170).

VIII

RULES FOR COMPETITIVE EXAMINATIONS TO BE HELD BY U.P.S.C. FOR FILLING VACANCIES IN ENGINEERING SERVICES (S.R.Os. 4055, 4056 AND 4058 OF 1957).

26. The statutory authority under which the above rules had been framed was not cited in the preamble thereof.

27. On a reference being made, the Ministry of Works, Housing and Supply intimated the authority under which the rules were framed and assured to quote the relevant statutory authority in the preamble to the rules in future.

Rule 4:—

28. Rule 4 of the above Rules gives discretion to the Union Public Service Commission to prescribe the maximum number of candidates to be admitted to an examination and to select such candidates for admission if the number of candidates desiring to sit for the examination exceeds the prescribed maximum limit.

29. It was felt that the selection might be arbitrary and some principles ought to have been laid down in the rules themselves for such selection.

30. The Ministry informed that as every candidate otherwise eligible under the rules was admitted to the examination rule 4 as such had not much of significance and that they had now decided to delete the said rule.

The Committee note the assurance given by the Ministry.

31. Further clause 2 of appendix 3 of these Rules provides that if a candidate is not admitted to the examination by the Commission, instead of refunding the full fee of Rs. 81·50, a refund of Rs. 75·00 only would be paid to him.

32. It was felt that where a candidate otherwise eligible, was rejected under rule 4, a refund of full fee should be made to him.

33. The Ministry intimated that in view of the proposed deletion of rule 4 no question of refund of full fee to such a candidate would arise in future.

The Committee note the Ministry's reply.

IX

NOTIFICATIONS RELATING TO IMPOSITION OF TAXES IN CANTONMENTS ISSUED UNDER SECTION 60 OF THE CANTONMENTS ACT, 1924 (S.R.Os. 414, 416 AND 417 OF 1957).

34. S.R.Os. 414, 416 & 417 of 1957 related to imposition of taxes in various cantonments issued under section 60 of the Cantonments

Act, 1924. Section 60 of the Act provides that the Cantonment Board may, with the previous sanction of the Central Government, impose in the cantonment any tax which under any enactment for the time being in force, may be imposed in any Municipality in the State wherein such cantonment is situated.

35. An enquiry was made from the Ministry of Defence whether they made sure that all the provisions of section 60 of the Cantonments Act, 1924 had been satisfied before they sanctioned the imposition of taxes by the Cantonment Boards.

36. The Ministry of Defence intimated that all the provisions of section 60 of the Act were observed before sanction for imposition of taxes by the Cantonments was issued.

The Committee have noted the Ministry's reply.

X

BYE-LAWS FOR REGULATING THE GRAZING OF ANIMALS IN THE CANTONMENT OF AHMEDABAD (S.R.O. 351 OF 1957).

37. The above noted bye-laws were made under sections 282 and 283 of the Cantonments Act, 1924.

38. Bye-law 7 (b) of the above bye-laws provided that in case a grazing token was lost, a duplicate might be issued on payment of Rs. 5/- plus the value of the token.

39. It was felt that the charge of Rs. 5/- in addition to the value of grazing token was in the nature of penalty for losing the token. The Act did not empower the Cantonment Board to impose such a penalty.

40. The Ministry of Defence have appreciated it and advised the Cantonment Board, Ahmedabad to submit a revised proposal to delete the offending provisions in the said bye-laws. The Ministry have further assured that a copy of the revised bye-laws when finalised would be placed before the Committee.

The Committee note the Ministry's assurance.

XI

DEOLALI CANTONMENT BOARD BYE-LAWS FOR THE REGULATION OF POSTING OF BILLS AND ADVERTISEMENTS ETC. (S.R.O. 150 OF 1958).

41. Bye-law 4 of the above bye-laws empowered the Cantonment Board to levy such charges for the use of space on the notice-boards as may be prescribed by the Board from time to time. Section 282(23)

of the Cantonments Act, 1924 under which the said bye-laws have been made, does not authorise levy of such charges by the Cantonment Board.

42. In the absence of any specific statutory authority the imposition of the above mentioned charges is beyond the bye-law making power of the Cantonment Board.

43. The Ministry of Defence to whom the point was referred have intimated that the Command Headquarters have been advised to omit the bye-law in question.

The Committee note the Ministry's assurance.

XII

PROVISIONS REGARDING POWERS OF ENTRY, SEARCH AND SEIZURE IN CONTROL ORDERS ISSUED UNDER THE ESSENTIAL COMMODITIES ACT, 1955

44. S.R.Os. 1252, 1916, 1936, 2258A of 1957 and S.R.Os. 73, 436, G.S.R. 285 and S.O. 446 of 1958 which were issued under Section 3 of the Essential Commodities Act, 1955 conferred very wide powers of entry to premises, search and seizure etc. on the authorised officers. But suitable safeguards like presence of witnesses, preparation of inventory of the goods seized and giving a copy thereof to the person concerned etc. were not provided for as is laid down in the Criminal Procedure Code.

45. The Committee note that the Ministries concerned, on references being made to them, have since amended the 'orders' in question accordingly.

XIII

AMBIGUITIES IN 'ORDERS'

(a)

46. Certain Customs and Excise Duties Drawback Rules (G.S. Rs. 98, 636 and 876 of 1958) issued under the Sea Customs Act, 1878 and the Central Excises and Salt Act, 1944 provided that "subject to the provisions of the Acts and these rules....." a refund shall be allowed in respect of duty paid materials used in the manufacture of goods exported from India. But the relevant Acts had not been named in the rules which appeared to be a lacuna.

47. On being pointed out, the Ministry of Finance explained that the names of the Acts were omitted through oversight. The Committee have noted that the omissions in respect of G.S. Rs. 98 and 636 have

been rectified by notifications in the Gazette (G.S. Rs. 194 and 1062 of 1958).

48. In case of G.S.R. 876 the Ministry have stated that since the rule would be consolidated soon with other rules, it is not necessary to rectify the omission.

49. The Committee consider that no further action is necessary in view of the explanation given by the Ministry.

(b)

50. G S.R. 93 of 1958 issued under section 6 of the Post Office National Savings Certificates Ordinance, 1944 amended sub-rule (5) of rule D of the Post Office National Savings Certificates Rules, 1944. It was noticed that after carrying out the notified amendment the sub-rule became incomprehensible.

51. The Committee note that on a reference being made to the Ministry of Finance, the lacuna has since been rectified by an amending notification (*vide* G.S.R. 209 of 1958).

(c)

52. Bye-laws 3 and 8 of the Ramgarh Cantonment Bye-laws for regulating the collection and recovery of the cycle and rickshaw tax (S.R.O. 122 of 1958) issued under section 282(3) of the Cantonment Act, 1924 provided for the use of certain forms for paying cycle or rickshaw taxes, acknowledgement receipts etc. but the forms were not appended to the bye-laws.

53. On a reference being made the Ministry of Defence have assured that necessary action is being taken to publish the requisite forms.

The Committee note the Ministry's assurance.

(d)

54. The Directorate General, All India Radio, New Delhi, Recruitment Rules, 1958 (S O. 1317 of 1958) issued under the proviso to Article 309 of the Constitution provided that the recruitment to the post of Inspector of Accounts in the Directorate General, All India Radio, should be made in accordance with the provisions contained in the Schedule.

55. It was noticed that no Schedule had been appended to the said rules as mentioned therein.

56. The Ministry of Information and Broadcasting whose attention was drawn towards this omission stated that the omission was through an oversight and assured that a fresh notification on the subject was being issued.

The Committee have noted the Ministry's assurance.

XIV

DELAY IN LAYING 'ORDERS' ON THE TABLE

57. The Committee note with regret that a number of 'Orders' were laid on the Table of the House after considerable delay. A statement of such 'Orders' is given in Appendix I.

58. The Committee would like to emphasise that all rules required to be laid before the House should be so laid within a period of 15 days after their publication in the Gazette, if the House is in session and if the House is not then in session the 'orders' should be laid on the Table as soon as possible (but within 15 days) after the commencement of the following session.

XV

ACTION TAKEN OR PROPOSED TO BE TAKEN BY GOVERNMENT ON VARIOUS RECOMMENDATIONS OF THE COMMITTEE ON SUBORDINATE LEGISLATION

59. The Committee have considered the replies sent by the Government in respect of the action taken or proposed to be taken by the Government on various recommendations contained in the Fourth and Sixth Reports (First Lok Sabha) and the First, Second and Third Reports (Second Lok Sabha) of the Committee on Subordinate Legislation.

60. Recommendations that have been accepted by the Government are given in Appendix II. The recommendations in respect of which the Government have given their own suggestions and such suggestions have been accepted by the Committee are given in Appendix III.

HUKAM SINGH,
Chairman,
Committee on Subordinate Legislation.

NEW DELHI;
The 18th December, 1958.

Summary of recommendations made in the Fourth Report of the Committee on Subordinate Legislation (Second Lok Sabha).

S. No.	Reference to para No. in the Report	Summary of Recommendations
1	17	Clause 22 of the Fertilizer (Control) Order, 1957 (as amended by G. S. R. 358 of 1958) ought to be amended in order to clarify Government's intention of fixing only one rate of fees for different classes of dealers for the grant of duplicate licences or duplicate certificates of registration, in a State
2	25	Provisions of rule 88 of the Delhi Municipal Corporation (Election of Councillors) Rules, 1958 ought to have been incorporated in the parent Act (Delhi Municipal Corporation Act, 1957) as has been done in the case of the Representation of the People Act, 1951 (*vide* section 170).
3	58	'Orders' required to be laid before the House should be laid within a period of 15 days after their publication in the Gazette, if the House is in session and if the House is not then in session the 'Orders' should be laid on the Table as soon as possible (but within 15 days) after the commencement of the following session.

APPENDICES TO THE REPORT

APPENDIX I

(*See* para 57)

Statement of 'Orders' in respect of which there has been delay in laying on the Table

Sl. No.	Name of 'Order'	Description of 'Order'	Date of publication in Gazette	Date of laying on the Table	*Delay Approximately			Name of the Ministry concerned
					Years	Months	Days	
1	2	3	4	5	6	7	8	9
1	S.R.O. 191 of 1956.	Amendment in the Cotton Textiles (Control) Order, 1948.	28-1-56	16-8-58	2	6		Ministry of Commerce & Industry.
2	S.R.O 1552 of 1956.	Amendment in the Jute Textiles (Control) Order, 1956.	7-7-56	11-8-58	2	1	4	

*The inter-session periods have not been counted for delay in the case of those 'orders' which were published when the House was not in session and were laid on the Table during the session immediately following their publication in the Gazette

1	2	3	4	5	6	7	8	9
3	S.O. 1339 of 1958.	Amendment in the Cotton Textiles (Production by Handloom) Control Order, 1956.	12-7-58	1-9-58		..	21	
4	S.O. 1594 of 1958.	Amendment in the Cotton Textiles (Production by Handloom) Control Order, 1956.	9-8-58	1-9-58	..		21	
5	G.S.R. 210 of 1958.	Amendment in the Medicinal and Toilet Preparations (Excise Duties) Rules, 1956.	5-4-58	24-4-58			18	
6	S.O. 327 of 1958.	Estate Duty (Distribution) Rules, 1958.	29-3-58	1-5-58		1	2	Ministry of Finance.
7	G.S.R. 611 of 1958.	Amendment in the Medicinal and Toilet Preparations (Excise Duties) Rules, 1956.	19-7-58	30-8-58			19	
8	G.S.R. 678 of 1958.	Amendment in the Medicinal and Toilet Preparations (Excise Duties) Rules, 1956.	9-8-58	30-8-58			19	

9	G.S.R. 218 of 1958.	Amendment in the Punjab Rice (Movement Control) Order, 1957.	8-4-58	26-4-58			17	Ministry of Food and Agriculture.
10	G.S.R. 219 of 1958.	Amendment in the Amritsar and Gurdaspur District Rice (Export Control) Order, 1957.	8-4-58	26-4-58			17	
11	G.S.R. 638-A of 1958.	The Wheat (Regulation of use in Roller Mills) Order, 1958.	25-7-58	28-8-58			17	
12	G.S.R. 751 of 1958.	Amendment in the Manipur Foodgrains (Movement) Control Order, 1956.	30-8-58	18-9-58			17	
13	S.R.O. 2777 of 1956.	Amendment in the Delhi (Control of Building Operations) Regulations, 1955.	24-11-56	15-9-58	1	9	21	Ministry of Health.
14	S.R.O. 1710 of 1957.	Amendment in the Delhi (Control of Building Operations) Regulations, 1955.	25-5-57	15-9-58	1	3	21	
15	S.R.O. 3063 of 1957.	Amendment in the Delhi (Control of Building Operations) Regulations, 1955	28-9-57	15-9-58		10	4	

1	2	3	4	5	6	7	8	9
16	S.R.O. 3823 of 1957.	Amendment in the Delhi (Control of Building Operations) Regulations, 1955.	30-11-57	15-9-58		9	14	
17	G.S.R. 391 of 1958.	Delhi Development Authority (Election of Representatives of Delhi Municipal Corporation) Rules, 1958.	17-5-58	28-8-58			17	Ministry of Home Affairs.
18	G.S.R. 479 of 1958.	Delhi Development Authority Rules, 1958.	14-6-58	28-8-58			17	
19	G.S.R. 189 of 1958.	Amendment in the Mineral Concession Rules, 1949.	29-3-58	24-4-58			25	Ministry of Steel, Mines and Fuel.
20	G.S.R. 196 of 1958.	Amendment in the Mineral Concession Rules, 1949.	27-3-58	24-4-58			27	

APPENDIX II

(*See* para 60)

Recommendations that have been accepted by the Government

Serial No.	Ref. to para of the Report	Summary of recommendations	Gist of Government's Reply
1	2	3	4
1	THIRD REPORT (First Lok Sabha) 29 and FOURTH REPORT (First Lok Sabha) 12 & 27	Some time limit should be fixed within which authorities concerned must take decision on the letter of resignation of a Chairman/member of a statutory body.	Accepted. But the fixation of time limit may not preclude negotiations with the non-official Chairman/member to complete a particular piece of work before he finally goes out. [D.P.A.O.M. No. S.RI (43-47) CB/57, dated 24th April, 1958.]
2	SIXTH REPORT (First Lok Sabha) 17	Some principles should be laid down in consultation with the Union Public Service Commission to be followed while determining the 'position of an officer transferred from one cadre to another and rule 7 of the I.A.S. and I.P.S. (Regulation of Seniority) Rules, 1954 should be amended accordingly.	The rule has since been amended accordingly. (G.S.R. 123-124 of 1958). [D.P.A.O.M. No. S(6)/L-57/P.A. dated 22nd April, 1958.]

1	2	3	4
3	First Report (Second Lok Sabha) 47	Rule 4 of the Life Insurance Corporation Rules, 1956 should be amended to provide that resignation of the Chairman or Members of the Life Insurance Corporation should be accepted within a period of 30 days of the receipt of the letter of resignation.	The Rule has since been amended accordingly. (G.S.R. 317 of 1958).
4	50-51	The Committee note the instructions issued by the Ministry of Defence to Aurangabad Cantonment Board of omitting the provisions of bye-law 1 of the Bye-laws contained in S.R.O. 77 of 1956 relating to the levy of fees.	Provisions relating to the levy of fees have since been omitted. (S.R.O. 138 of 1958).
5	72	Delhi (Control of Building Operations) Regulations, 1955, should be suitably amended so as to omit regulations 5(2) (*i*) and 5(3) (*i*) providing for imposition of certain charges on the applicants before permission for the development of land could be granted to them because the parent Act does not authorise for the same.	The Delhi Development Authority had already been asked to stop levying the charges. Necessary action to delete the clause 3 in question will be taken shortly. [D.P.A.O.M. No. SR.-I(67-72)/CB/57, dated 24th/25th March, 1958.]
6	105	Rules 6 and 13 of the Agricultural Produce (Development and Warehousing) Corporation Rules, 1956 should be suitably amended to specify a limit of one month during which decision on the letter of resignation of member should be taken.	The rules have since been amended accordingly. (G. S.R. 938 of 1958). [D.P.A. O.M. No. S.R.I. (102—113) C.B./57, dated 27th/28th October, 1958.]

7	113	The decision of the National Co-operative Development and Warehousing Board under rule 32(3) of the Agricultural Produce (Development and Warehousing) Corporation Rules, 1956 should be subjected to adjudication by a court of law. The ambiguity created by the use of word 'Final' in the rule should be corrected.	The rule has since been amended accordingly. [D.P.A. O.M. No. SRI (102-113)/CB/57, dated 27th/28th October, 1958.]
8	122 & 125	Retrospective effect to any provision should not be given by the rules unless the Act expressly conferred such powers.	The Government accept this recommendation. However if it becomes necessary in rare cases to give retrospective effect to any subordinate legislation care would be taken to see that it is in accordance with the principles laid down by courts in this behalf, one of them being that such operation will not affect vested rights. [D.P.A. O.M. No. SR-I (119-22) (123-25)/CB/57, dated 24th April, 1958.]
9	133	The provision for levy of registration fee on the Stevedores made in clause 15(1) of the Calcutta Dock Workers (Regulation of Employment) Scheme, 1956, be made in the Dock Workers (Regulation of Employment) Scheme Act, 1956.	The relevant clause has been omitted as the imposition of levy on stevedores is not considered necessary. [D.P.A. O.M. No. SRI (130-33) (134-37)/CB/57, dated 27th August, 1958].
10	137	Second proviso to clause 15(1)(*e*) of the Calcutta Dock Workers (Regulation of Employment) Scheme, 1956, should be amended to provide that the aggrieved employers are given an opportunity of being heard as there is no right of appeal against the orders of the Dock Labour Board.	The clause has been amended accordingly. (S.O. 1671 of 1958). [D.P.A. O.M. No. SRI (130-33) (134-37)/CB/57, dated 27th August, 1958].

1	2	3	4
11	SECOND REPORT (Second Lok Sabha) 18-19	Committee note the assurance given by the Ministry of Defence that portion of bye-laws 20 and 26 of the Deolali Cantonment contained in S. R. O. 80 of 1957 providing that the water meters supplied by the consumers at their own cost would become the property of the Board etc. would be omitted.	This has since been done. (S.R.O. 192 of 1958).
12	26-27	(*i*) The provision for levy of registration fee on the Stevedores made in clause 15(1) of the Bombay Dock Workers (Regulation of Employment) Scheme, 1956 be made in the Dock Workers (Regulation of Employment) Act, 1956.	(*i*) The objectionable clause has since been omitted.
		(*ii*) Second proviso to clause 15(1) (*e*) of the Bombay Dock Workers (Regulation of Employment) Scheme, 1956 should be amended to provide that the aggrieved employers are given an opportunity of being heard as there is no right of appeal against the orders of the Dock Labour Board.	(*ii*) The clause has been amended accordingly. (S.O. 1670 of 1958). [D.P.A. O.M. No. SRII (20-27) CB/58, dated 1/4th September, 1958].
13	67	The term "Port Authority" occurring in clause 15(*i*) (*e*) of the Calcutta Dock Workers (Regulation of Employment) Scheme, 1956 should be defined as in the Employment of Children Act, 1938 or substituted by an appropriate term used in the Calcutta Port Act, 1890.	The term "Port Authority" has since been substituted by the term "Calcutta Port Commissioners" accordingly. [D.P.A. O.M. No. SRII (63-67)CB/58, dated 23rd July, 1958.]

14	Appendix III (Item No. 2)	Necessary directions should be issued to the State Governments to re-publish all statutory rules and orders of concern and importance to the general public and particularly those of local importance in the State Gazette as soon as possible after their publication in the Central Gazette and also to make arrangement for the translation and publication of such rules in regional languages whenever the State Government consider it useful to do so.	This has since been done. [D.P.A. O.M. No. S. (III) L/15/57-PA, dated 15/16th July, 1958].
15	Appendix III (Item No. 4)	In case where public opinion is invited on the draft rules within a period of less than 30 clear days, a Press Communique should be issued immediately to the effect that draft rules for inviting public opinion have been published, so that the public may be aware of the draft rules and may have adequate opportunity to send in their comments.	Accepted. [D.P.A. O.M. No. S(6) L/57-P.A., dated the 25th November, 1958].
16	THIRD REPORT (Second Lok Sabha) 43	The National Cadet Corps Act, 1948 should be suitably amended to provide that the representatives of Parliament on the Central Advisory Committee would cease to be members thereof if they cease to be members of the House by which they are elected.	Accepted in principle. Appropriate amendment to the N.C.C. Act, 1948 would be made in due course when other major amendments to the said Act become necessary. [D.P.A. O.M. No. SRIII(CB)/58-P.A. dated 21st November, 1958].
17	59	Short titles should be given to rules, regulations etc. and amendments thereto.	Ministries requested to implement [D.P.A. O.M. No. SRIII (58-59) CB/58, dated 27th May, 1958].

1	2	3	4
18	61	All rules required to be laid should be laid on the Table of the House within a period of 15 days after their publication in the Gazette if the House is in session, if it is not in session then as soon as possible but within 15 days after the commencement of the following session.	Ministries requested to implement. [D.P.A. O.M. No. SR III (60)/CB/58, dated 28th May, 1958].

APPENDIX III

(*See* para 60)

Recommendations not accepted by the Government wholly but replies in respect of which have been accepted by the Committee

Serial No.	Ref. to para No. of the Report	Summary of recommendations	Gist of Government's Reply
1	SIXTH REPORT (First Lok Sabha) 81	When new rules amending the original rules are laid on the Table of the House the relevant extracts from the original rules should also be attached to such rules.	The recommendation has already been accepted by the Government [D.P.A.O.M. No. S.(6)V/57 P.A., dated 1/3rd March, 1958]. But in practice when some small amendments are made in lengthy schedules appended to the rules, it would entail a good deal of duplication work if original copies of the schedules brought up-to-date are every time laid before the House. For instance amendments in the schedules to the Medicinal and Toilet Preparations (Excise Duties) Rules. Therefore, in such cases original schedules need not be laid along with the amendments. [D.P.A.O.M. No. S(6)V/L-57/P.A., dated 7/10th July, 1958].

1	2	3	4
2	First Report (Second Lok Sabha) 37	The Cotton Textiles (Production by Handloom) Control Order (S.R.O. 1077A of 1956) should be suitably amended to omit the provision regarding seizure of unregistered looms from the weavers.	The Government consider that there is no scope for amending the order. The provision for seizure made in the order is consistent with the provisions of section 3(2) (j) of the Essential Commodities Act, 1955 under which it was made. [D.P.A. O.M. No. SRI (34-37)/CB/57, dated 21/22nd July, 1958].

APPENDIX IV
MINUTES

ELEVENTH SITTING

Parliament House, New Delhi: Wednesday the 10th September, 1958.

The Committee met from 16.00 hours to 16.30 hrs.

PRESENT

Sardar Hukam Singh—*Chairman*

MEMBERS

2. Shri Phani Gopal Sen
3. Shri Ajit Singh Sarhadi
4. Shri K. S. Ramaswamy
5. Shri T. N. Viswanatha Reddy
6. Shri Braj Raj Singh
7. Shri Thakur Das Malhotra.

SECRETARIAT

Shri A. L. Rai—*Under Secretary.*

2. The Committee considered and took decisions on memoranda prepared by the Secretariat on the following subjects and Orders:—

1. * * * * *

2. Rules for Competitive Examinations to be held by U.P.S.C. for filling vacancies in certain Engineering Services (Memorandum No. 76).

3. The Customs and Excise Duties Drawback (Trailers) Rules, 1958 (G.S.R. 98 of 1958) (Memorandum No. 77).

4. Amendments in the Post Office National Savings Certificates Rules, 1944 (G.S.R. 93 of 1958) (Memorandum No. 78).

5. Amendment in the Registration of Newspapers (Central) Rules, 1956 (G.S.R. 16 of 1958) (Memorandum No. 79).

6. Bye-laws for regulating the grazing of animals in the Cantonment of Ahmedabad (S.R.O. 351 of 1957) (Memorandum No. 80).

7. Provisions regarding Powers of entry and search in Food Grains Movement Control Orders (S.R.Os. 1852, 1916, 1986 and 2258A of 1957 and S.R.Os. 73 and 436 of 1958) (Memorandum No. 81).

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*Omitted portions of the Minutes are not covered by the Fourth Report.

8. * * * * *

9. The Delhi Municipal Corporation (Election of Councillors) Rules, 1958 (Memorandum No. 83).

10. Amendment in the Life Insurance Corporation Rules, 1956 (G.S.R. 317 of 1958) (Memorandum No. 84).

11. Amendment in the Bye-laws for regulating the erection of temporary structures on any land situated within Aurangabad Cantonment (S.R.O. 138 of 1958) (Memorandum No. 85).

3 * * * * * * * *

4 * * * * * * * *

Rules for Competitive Examinations to be held by the U.P.S.C. for Filling Vacancies in Engineering Services (S.R.Os. 4055, 4056, 4057 and 4058 of 1957).

5. The Statutory authority under which the above rules had been framed were not cited in the preamble thereof.

6. The Ministry of Works, Housing and Supply to whom this was pointed out intimated the authority under which the rules were framed and assured they would quote the relevant statutory authority in the preamble to the rules in future.

7. The Committee noted the Ministry's reply. Secondly, Rule 4 of the above Rules gave discretion to the U.P.S.C. to select and limit the number of candidates to be admitted to an examination to 200.

8. It was felt that the selection might be arbitrary and some principles ought to have been laid down in the rules themselves for making such selections.

9. The Ministry informed that as every candidate otherwise eligible under the rules was admitted to examination rule 4 as such had not much of significance. However, they had now decided to delete the said rule 4.

10. The Committee noted the Ministry's assurance.

11. Thirdly, clause 2 of Appendix 3 of the above Rules provided that if a candidate was not admitted to the examination by the Commission, instead of refunding the full fee, i.e., Rs. 81·50 a refund of Rs. 75.00 only would be made to him.

12. It was felt that where a candidate otherwise eligible, was rejected under rule 4, a refund of full fees should be made to him.

13. The Ministry intimated that in view of the proposed deletion of rule 4 as stated above, no question of refund of full fee to such a candidate would arise in future.

14. The Committee noted the Ministry's reply.

The Customs and Excise Duties Drawback (Trailers) Rules, 1958 (G.S.R. 98 of 1958)

15. Clause 3 of the above Rules provided "Subject to the provisions of the Acts and Rules, a refund shall be allowed in respect of duty paid materials used in the manufacture of goods exported from India....."

16. It was noticed that the relevant Acts had not been named in the Rules and there appeared to be a lacuna.

17. The Ministry of Finance explained that the names of the Acts were omitted through an error and rectified the omission by an amending notification (*vide* G.S.R. 194 of 1958).

18. The Committee noted the Ministry's reply.

Amendments in the Post Office National Savings Certificates Rules—1944 (G.S.R. 93 of 1958)

19. G.S.R. 93 amended sub-rule (5) of rule D of the above Rules. It was noticed that after carrying out the notified amendments the sub-rule became incomprehensible.

20. The Committee noted that the Ministry of Finance had rectified the lacuna by an amending notification (*vide* G.S.R. 209 of 1958).

Amendment in the Regulation of Newspapers (Central) Rules, 1956 (G.S.R. 16 of 1958)

21. In rule 9 of the above Rules the fee for furnishing extracts from the Press Register was raised from rupee one to rupees five.

22. It was felt that fee should be proportionate to the quantum of services rendered by the authority and the Ministry of Information and Broadcasting which was asked to explain the circumstances which had necessitated such a raise, intimated that the fee of Re. 1 was not commensurate with the labour involved in collecting, computing and maintaining the particulars relating to newspapers in the country and moreover it was not adequate to prevent frivolous requests for extracts.

23. The Committee felt that the explanation given by the Ministry was satisfactory and no further action was necessary.

Bye-laws for Regulating the Grazing of Animals in the Cantonment of Ahmedabad (S.R.O. 351 of 1957)

24. Bye-law 7 (b) of the above bye-laws provided that in case a grazing token was lost, a duplicate might be issued on payment of Rs. 5 plus the value of the token.

25. It was felt that the charge of Rs. 5 in addition to the value of grazing token was in the nature of penalty for losing the token. The Act did not empower the Cantonment Board to impose such a penalty.

26. The Ministry of Defence appreciated it and advised the Cantonment Board, Ahmedabad to submit a revised proposal to delete

the offending provisions in the said-bye-laws. The Ministry further assured that a copy of the revised bye-laws when finalised would be placed before the Committee.

27. The Committee noted the Ministry's assurance.

Provisions regarding Powers of Entry and Search in Food Grains Movement Control Orders issued under the Essential Commodities Act, 1955 (*S.R.O.* 1852, 1916, 1936 *and* 2258*A of* ~~1955~~ *and* 1957 *S.R.O.* 73 *and* 436 *of* 1958)

28. The above 'Orders' contained very wide powers of entry, search and seizure etc., by the authorised Officer. These orders did not provide that before making a search two or more respectable inhabitants of the locality ought to be called to attend and witness the search and that if the place to be searched was an apartment in actual occupation of a woman, who according to custom did not appear in public, a notice before entering such an apartment ought to be given to such a woman to withdraw. Such provisions were contained in Income-tax (Search of Premises and Seizure of Documents) Rules, 1957. (S.R.O. 1953 of 1957).

29. The Ministry of Food and Agriculture consequently amended the orders providing that the authorised officer exercising the powers of entry and search, should pay due regard to the social and religious customs of the occupants of the premises and in case such premises be found locked up, unoccupied or unattended, to break open and enter upon them in the presence of two witnesses.

30. The Committee at their sitting held on the 26th February, 1958 considered the matter and noted that the amendments made by the Ministry met the objection to a great extent, but however, they desired that two witnesses should attend or witness the search of premises irrespective of the fact whether the premises to be searched were found locked or not.

31. The Ministry, whose attention was invited to the observations of the Committee have since made further amendments in the orders in question and certain other orders which contain similar provisions in regard to power of entry and search, so as to require the authorised officer exercising the power of entry and search to call upon two respectable inhabitants of the locality concerned to attend and witness the search, to prepare a list of all the things taken possession of and to deliver a copy thereof, duly signed by the witnesses, to the person or the owner of vehicle, conveyance, premises etc.

32. The Committee noted that necessary amendments had since been made by the Ministry.

33. * * * * *

34. * * * * *

Delhi Municipal Corporation (Election of Councillors) Rules, 1958

35. It was felt that Rule 88 was contrary to the recommendation of the Committee where the Committee on a similar point observed that substantive provision of law pertaining to jurisdiction of Courts should be provided in the Act itself and further observed that where it was necessary to oust the jurisdiction of Courts with regard to

some technical defects or routine matters there should be a clear authority from Parliament itself to that effect (*vide* para 7 of their Second Report, First Lok Sabha).

36. The Ministry of Home Affairs, whose attention was invited to the recommendation of the Committee replied that sub-section (1) of section 31 of the Delhi Municipal Corporation Act conferred extensive powers on the Central Government to make rules in respect of elections and in view of provisions contained in sections 15 and 17 of the Act, the scope of rule 88 of the Delhi Municipal Corporation (Election of Councillors) Rules, 1958 was narrowed down to the ousting of jurisdiction of Civil Courts in certain administrative matters.

37. The Committee felt strongly that ousting of jurisdiction of the Courts could not be done under the rules without a substantive provision in the law and recommended that the offending rule 88 should be deleted.

Amendment in the Life Insurance Corporation Rules, 1956 (*G.S.R.* 317 *of* 1958)

38. Rule 4 of the Life Insurance Corporation Rules, 1956 (S.R.O. 1889A of 1956) provided that the resignation of Chairman or members of the Life Insurance Corporation would take effect from the date of its acceptance by the Central Government.

39. The Committee recommended that the rule should be amended to provide for a period of thirty days within which the letter of resignation should be accepted (*vide* para 47 of the 1st Report, Second Lok Sabha).

40. The Committee noted that Rule 4 was amended by the Ministry of Finance in accordance with their recommendation.

Amendment in the Bye-laws for Regulating the Erection of Temporary Structures on any Land situated within Aurangabad Cantonment (*S.R.O.* 138 *of* 1958)

41. Bye-law 1 of the original bye-laws (S.R.O. 77 of 1956) provided for the levy of fees for the erection of fences, enclosures or temporary structures etc., within the limits of Aurangabad Cantonment.

42. It was brought to the notice of the Ministry of Defence that clause (18) of Section 282 of the Cantonments Act, 1924, under which the above bye-laws were framed did not authorise such levy of fees.

43. The Ministry, gave an assurance to the Committee that necessary instructions were being issued to the Cantonment Board to delete the clause in that respect from the bye-laws (*vide* para 50 of their First Report, Second Lok Sabha).

44. The Committee noted that the offending portion of the clause was deleted from the Bye-laws accordingly.

45. The Committee then adjourned *sine die*.

II

TWELFTH SITTING

Parliament House, New Delhi: Tuesday, the 25th November, 1958.

The Committee met from 16.30 hours to 17.00 hours.

PRESENT

Sardar Hukam Singh—*Chairman*

MEMBERS

2. Shri Phani Gopal Sen
3. Shri Bahadur Singh
4. Shri Aurobindo Ghosal
5. Shri T. C. N. Menon.

SECRETARIAT

Shri A. L. Rai—*Under Secretary.*

2. The Committee considered and took decisions on memoranda prepared by the Secretariat on the following subjects and Orders:—

1. The Rice (Prohibition of use in Wheat Products) Order, 1958 (G.S.R. 285 of 1958) (Memorandum No. 86).
2. The Honey Grading and Marking Rules, 1957 (S.O. 91 of 1958) (Memorandum No. 87).
3. The Coal Mines Regulations, 1957 (S.R.O. 3419 of 1957) (Memorandum No. 88).
4. The All India Institute of Medical Sciences Rules, 1958 (G.S.R. 135 of 1958) (Memorandum No. 89).
5. Amendment in the Bye-laws for the Regulation of Public water supply etc. and collection of water charges in Deolali Cantonment (S.R.O. 192 of 1958) (Memorandum No. 90).
6. Notifications relating to imposition of taxes in Cantonments issued under section 60 of the Cantonments Act, 1924 (S.R.O.'s 414, 416 and 417 of 1957) (Memorandum No. 91.
7. Amendment in the Bombay Dock Workers (Regulation of Employment) Scheme, 1956 (S.O. 1670 of 1958) (Memorandum No. 92).
8. Amendment in the Calcutta Dock Workers (Regulation of Employment) Scheme, 1956 (S.O. 1671 of 1958) (Memorandum No. 93).

9. Bye-laws for regulating the Collection and Recovery of Cycle and Rickshaw tax within the Ramgarh Cantonment. (S.R.O. 122 of 1958) (Memorandum No. 94).

10. Provisions regarding powers of entry and search in Non-ferrous Metals Control Order, 1958 (S.O. 446 of 1958) (Memorandum No. 95).

11. Amendment to the Fertilizer (Control) Order, 1957 (G.S.R. 358 of 1958) (Memorandum No. 96).

12. * * * * *

13. Amendment to the All India Medical Sciences Rules, 1958 (G.S.R. 633 of 1958) (Memorandum No. 98).

14. The Customs and Central Excise Duties Drawback (Bicycles) Rules, 1958 (G.S.R. 636 of 1958) (Memorandum No. 99).

The Honey Grading and Marking Rules, 1957 (*S.O.* 91 *of* 1958)

3. The Honey Grading and Marking Rules, 1955, were issued under Section 3 of the Agricultural Produce (Grading and Marking) Act, 1937. The grade designation mark (Agmark) for honey given in Schedule III to the said rules contained the phrase 'Produce of India' and its Hindi equivalent as "Bharat-ki-Utpatti".

4. The Hindi Phrase was not a happy translation of "Produce of India" as it could mean 'Production of India' or 'Birth of India'. This was brought to the notice of the Ministry of Food & Agriculture.

5. The Committee noted that the Ministry had since decided to adopt the phrase "भारतीय उत्पाद" "Bhartiya Utpad" as the Hindi equivalent of "Produce of India".

The Coal Mines Regulations, 1957 (*S.R.O.* 3419 *of* 1957)

6. *Regulation* 8(*i*) (*a*).—Proviso to Regulation 8(1) (a) of the Coal Mines Regulations, 1957, which were issued under section 57 of the Mines Act, 1952, required that in case the owner of a Coal Mine was a *member of a firm or other association of individuals* he shall intimate to the Chief Inspector and the Regional Inspector any change, if it occurs, in the membership of such a firm or association. This requirement appeared to be of an unusual nature inasmuch as an Owner of a Mine might be a member of a number of Associations—a club, a company, a philanthropic society etc., which had no concern with the working of Coal Mines.

7. On a reference being made, the Ministry of Labour and Employment, had stated that the intention was that if the Owner of a mine *was* a firm or any other association the change in the membership thereof should be communicated to the Chief Inspector even though the name of the firm or association remained the same. The Ministry had agreed to amend the regulation accordingly.

8. The Committee noted the Ministry's reply.

9. *Regulation* 11.—This regulation provided for the constitution of a Board of Mining Examinations to grant various certificates under the regulations. But the procedure for the working of the Board *viz.*, quorum, mode of arriving at a final decision etc., which was normally provided in cases of statutory bodies was not laid down.

10. The Ministry of Labour and Employment had stated that under regulation 13 (4), the Board was competent to make bye-laws "as to the conduct of examinations and to the granting of certificates of competency and of fitness as required under the regulations". The procedure for the working of the Board, *viz.*,—quorum, mode of arriving at final decisions etc., could also be appropriately specified in the bye-laws. To enable that being done, the Ministry intimated that regulation 13 (4) would be suitably amplified.

11. The Committee noted the Ministry's reply.

The All India Institute of Medical Sciences Rules, 1958

12. The All India Institute of Medical Sciences (Nomination) Rules, 1956 were made to provide for the nomination of representatives of the medical faculties of Indian Universities on the Institute under Sec. 4 (f) the All India Institute of Medical Sciences Act, 1956. The Rules provided that the Central Government *shall* nominate the four persons elected by the medical faculties.

13. Subsequently the All India Institute of Medical Sciences Rules, 1958 were framed which superseded the earlier rules. Rule 3 of these rules provided that the Central Government *may* nominate the four persons elected by the medical faculties. The following two points were referred to the Ministry for clarification in this connection:—

(i) What were the reasons for using the word 'may' instead of 'shall' in the later rules.

(ii) It was not clear whether the earlier rules were abrogated or not as there was no provision in the subsequent rules to that effect.

14. The Ministry stated that the word 'may' was used in order to provide for any contingency where the Government had to exercise discretion in the nomination of members. The Ministry, however, added that there was no objection to changing the word 'may' into 'shall'.

15. The Ministry also stated that the earlier rules were superseded by subsequent rules but due to oversight necessary provision for their repeal was not made in the later rules.

16. The Committee noted that the rules have since been amended accordingly. (G.S.R. 633 of 1958).

17. *Delay in framing regulations.*—The Ministry of Health stated that the regulations under various sections of the parent Act required to be framed by the Institute had been framed. The same were being examined in the Ministry in consultation with the Ministries of Home Affairs and Law for final approval of the Central Govern-

ment under section 29 of the Act. A copy of those regulations when finally approved would be sent to the Committee on Subordinate Legislation for their information.

18. The Committee noted the Ministry's reply.

Amendment in the Bye-laws for the regulation of Public Water Supply etc. and Collection of Water charges in Deolali Cantonment (S.R.O. 192 of 1958)

19. The Committee noted that the S.R.O., mentioned above, amended the original bye-laws (S.R.O. 80 of 1957) in accordance with an assurance given by the Ministry of Defence [para 18 of the Second Report of the Committee on Subordinate Legislation, (Second Lok Sabha)].

Notification relating to Imposition of Taxes in Cantonments issued under section 60 of the Cantonments Act, 1924 (S.R.Os. 414, 416 and 417 of 1957)

20. S.R.Os. 414, 416 and 417 of 1957 related to imposition of taxes in various Cantonments under section 60 of the Cantonments Act, 1924. Section 60 of the Act provides that the Cantonment Board may, with the previous sanction of the Central Government, impose in the Cantonment any tax which under any enactment for the time being in force, may be imposed in any Municipality in the State wherein such Cantonment is situated.

21. An enquiry was made from the Ministry of Defence whether they made sure that all the provisions of Section 60 of the Cantonments Act, 1924 had been satisfied before they sanctioned the imposition of taxation by the Cantonment Boards.

22. The Ministry of Defence intimated that all the provisions of Section 60 of the Act were observed before sanction for imposition of taxes by the Cantonments was issued.

23. In view of the Ministry's reply the Committee considered that no further action was necessary.

Amendment in the Calcutta and Bombay Dock Workers (Regulation of Employment) Schemes, 1956 (S.Os. 1670 and 1671 of 1958)

24. The Committee noted that the S.Os. mentioned above, amended the original Schemes (S.R.Os. 2315 and 2634 of 1956) in accordance with the earlier recommendations of the Committee made in paras 133 and 137 of their First Report and paras 26-27 of their Second Report (Second Lok Sabha).

Bye-laws for Regulating the Collection and Recovery of Cycle and Rickshaw Tax within the Ramgarh Cantonment (S.R.O. 122 of 1958)

25. Bye-laws 3 and 8 of the said bye-laws provided for use certain forms for paying cycle or rickshaw taxes acknowledgement receipts etc. which were not appended to the said bye-laws.

26. On a reference being made the Ministry of Defence had assured that necessary action was being taken by them to publish the requisite forms. The Committee noted the Ministry's assurance.

Provisions regarding powers of entry and search in Non-Ferrous Metals Control Order, 1958 (S.O. 446 of 1958) and the Rice (Prohibition of use in Wheat Products) Order, 1958 (G.S.R. 285 of 1958)

27. The above orders which were issued under the Essential Commodities Act, 1955, conferred very wide powers of entry to the premises, search and seizure etc. on the authorised officers. But suitable safeguards like presence of witnesses etc. were not provided for as is laid down in the Criminal Procedure Code.

28. The Committee noted that the Ministries concerned have since amended the above 'orders' accordingly. (G.S.Rs. 1074 and 58 of 1958).

Amendment to the Fertilizer (Control) Order, 1957 (G.S.R. 358 of 1958)

29. G.S.R. 358 of 1958 amended clause 22 of the Fertilizer Control Order, 1957, enabling the State Government to fix different fees for different classes of dealers for the grant of duplicate licence or duplicate certificate of registration. As it appeared to be discriminatory Ministry of Food and Agriculture were asked the principle or the reason therefor. The Ministry explained that though the amendment might suggest the possibility of fixing different fees for different classes of dealers for issue of duplicate licences or certificates, the intention was to fix only one rate for all such cases, in a State.

30. The Committee was of the opinion that as it was possible to charge different fees for duplicate licences etc. from different classes of dealers the relevant clause might be amended to make the intention clear.

31. * * * * * *

Amendments to the All India Institute of Medical Sciences, Rules, 1958 (G.S.R. 633 of 1958)

32. The sub-rule (2) of rule 7 of the All India Institute of Medical Sciences Rules, 1958 provided (i) that appointments to all posts created by the Institute shall be made on the recommendation of a Selection Committee and (ii) that the Selection Committee shall be constituted with the approval of the Central Government. This sub-rule was substituted by a new sub-rule, which provided that the Director General of Health Services shall be a member of all Selection Committees constituted by the Institute but left it to the discretion of the Institute—in effect to the discretion of the Chairman of the Governing Body to make appointments even without consulting any Committee at all.

33. On a reference being made to the Ministry of Health as to why the old rule was discarded, the Ministry stated that it was represented on behalf of the Institute that it would be difficult to constitute a Selection Committee with the prior approval of the Government for appointment to all posts created by the Institute as these posts may include lowest paid ones for which no selection committee was necessary and that even when a selection committee was necessary, it would be left to the Institute to approve of its constitution. Therefore the Ministry considered that prior approval of the Government for the constitution of such a Committee was not necessary and it would be sufficient if the Director General of Health Services was appointed as a member of all the selection Committees constituted by the Institute.

34. The Committee was of the opinion that if there was any difficulty in obtaining prior approval of the Central Government the rules ought to have been amended accordingly. But the amended rule besides dispensing with that requirement left it to the discretion of the Institute to constitute or not to constitute a selection Committee. The procedure for making appointment to any post through a Selection Committee—no matter by whom it was appointed provided that the rules regulating the manner of its appointment and procedure of its working etc. were settled beforehand—in itself would allay criticism and chances of favouritism.

35. The Committee, however desired that the Ministry of Health might be asked to intimate (i) the categories of posts where it would not be necessary to constitute any selection committee at all; and (ii) in cases where a selection committee was necessary whether it was not desirable to lay down the manner of constituting and working of such Committees in the Regulations under Sec. 29 (i) (b) of the Parent Act.

The Customs and Central Excise Duties Drawback (Bicycles) Rules, 1958 *(G.S.R. 636 of* 1958)

36. Clause 3 of the above Rules read as follows:

> "Subject to the provisions of *the Acts* and these rules..... a refund shall be allowed in respect of duty paid materials used in the manufacture of goods exported from India or the state of Pondicherry".

It was noticed that the Acts referred to therein had not been specified in the Rules which appeared to be a lacuna.

37. The Committee noted that, on a reference to the Ministry of Finance, the omission had been rectified by notification in the Gazette (G.S.R. 1062 of 1958).

38. The Committee then adjourned *sine die.*

III

THIRTEENTH SITTING

Parliament House, New Delhi: Friday, the 12th December, 1958

The Committee met from 16.00 hours to 16.20 hours.

PRESENT

Sardar Hukam Singh—*Chairman.*

MEMBERS

2. Shri J. M. Mohamed Imam
3. Shri Ajit Singh Sarhadi
4. Shri Bahadur Singh
5. Shri T. N. Viswanatha Reddy
6. Shri Aurobindo Ghosal.

SECRETARIAT

Shri A. L. Rai—*Under Secretary.*

2. The Committee considered and took decisions on memoranda prepared by the Secretariat on the following subjects and Orders:—

1. Himachal Pradesh Seed Potato (Control) Order, 1958 (G.S.R. 758-A of 1958)—(Memorandum No. 100).
2. The Customs and Central Excise Duties Drawback (Piperazine Syrup) Rules, 1958 (G.S.R. 876 of 1958)—(Memorandum No. 101).
3. Deolali Cantonment Board Bye-laws for the regulation of posting of Bills and Advertisements etc. (S.R.O. 150 of 1958)—(Memorandum No. 102).
4. Delay in laying 'Orders' on the Table (Memorandum No. 103).
5. Directorate General, All India Radio, New Delhi, Recruitment Rules, 1958 (S.O. 1317 of 1958)—(Memorandum No. 104).
6. Action taken or proposed to be taken by Government on various recommendations of the Committee on Subordinate Legislation. (Memorandum No. 105).

Himachal Pradesh Seed Potato (Control) Order, 1958 (G.S.R. 758A of 1958)

3. The above order was issued under the Essential Commodities Act, 1955. Clause 10 of the said order provided that any person who was aggrieved by an order refusing to grant or cancelling or suspend-

ing a licence might within 15 days from the date of such order, appeal to such authority as the Administration might specify in that behalf and the decision of the authority was to be final.

4. It was felt that in order to ensure that an aggrieved person got reasonable time to appeal, the period of 15 days for appeal should be reckoned from the date when the grounds of refusal, cancellation or suspension of a licence were actually brought to the notice of the aggrieved person.

5. Further in the said clause the authority to which the appeal would lie was not specifically mentioned. In the absence of such specific mention, it was not clear how the name of the appellate authority would be known to the persons concerned.

6. Since the order had been withdrawn by the Ministry of Food and Agriculture, the Committee noted that no further action was necessary in the matter.

The Customs and Central Excise Duties Drawback (Piperazine Syrup) Rules, 1958 (*G.S.R.* 876 *of* 1958)

7. Clause 3 of the above Rules read as follows:—

> "Subject to the provisions of *the Acts* and these rules..... a refund shall be allowed in respect of duty paid materials used in the manufacture of goods exported from India or the State of Pondicherry".

8. It was noticed that the Acts referred to therein had not been specified in the Rules which appeared to be a lacuna.

9. The Ministry of Finance to whom the point was referred stated that since those rules were being superseded by a set of new rules consolidating a number of such rules, it was considered not necessary to rectify the omission pointed out. They assured that new Rules would be published soon.

10. The Committee noted the Ministry's reply.

Deolali Cantonment Board Bye-Laws for the Regulation of Posting of Bills and Advertisements etc. (*S.R.O.* 150 *of* 1958)

11. Bye-law 4 of the above Bye-laws empowered the Cantonment Board to levy such charges for the use of space on the notice boards as may be prescribed by the Board from time to time. Section 282(23) of the Cantonments Act, 1924 under which the said bye-laws were made, did not authorise levy of such charges by the Cantonment Board. The Bye-law appeared to be beyond the bye-law making power of the Board.

12. The Ministry of Defence, to whom the point was referred, intimated that the Command Head Quarters had been advised to omit the bye-law in question.

13. The Committee noted the Ministry's assurance.

Directorate General, All India Radio, New Delhi, Recruitment Rules, 1958 (S.O. 1317 of 1958)

14. The above order provided that the recruitment to the post of Inspector of Accounts in the Directorate General, All India Radio, should be made in accordance with the provisions contained in the Schedule.

15. It was noticed that no Schedule had been appended to the said rules as mentioned therein.

16. The Ministry of Information and Broadcasting whose attention was drawn towards this omission stated that the omission was through an oversight and assured that a fresh notification on the subject was being issued.

17. The Committee noted the Ministry's assurance.

Delay in Laying 'Orders' on the Table

18. The Committee decided that the delay in laying the 'Orders' on the Table shown in Appendix I (*vide* page 13 *ante*) be reported to the House.

Action taken or Proposed to be taken by Government on various Recommendations of the Committee on Subordinate Legislation

19. The Committee considered the reply sent by the Government in respect of the action taken or proposed to be taken by the Government on various recommendations contained in the Fourth and Sixth Reports (First Lok Sabha) and the First, Second and Third Reports (Second Lok Sabha) of the Committee on Subordinate Legislation.

20. Recommendations that were accepted by the Government are given in Appendix II (*vide* page 17 *ante*). The recommendations in respect of which the Government had given their own suggestions and such suggestions were accepted by the Committee are given in Appendix III (*vide* page 23 *ante*).

21. The Committee then adjourned to meet again at 16.00 hours on Wednesday, the 17th December, 1958.

IV

FOURTEENTH SITTING

Parliament House, New Delhi: Wednesday, the 17th December, 1958.

The Committee met from 16.00 hours to 16.20 hours.

PRESENT

Sardar Hukam Singh—*Chairman.*

MEMBERS

2. Shri Phani Gopal Sen.
3. Shri Sinhasan Singh
4. Shri Bahadur Singh
5. Shri T. N. Viswanatha Reddy
6. Shri Aurobindo Ghosal
7. Shri Kanhaiyalal Bherulal Malvia
8. Shri T. C. N. Menon.

SECRETARIAT

Shri A. L. Rai—*Under Secretary.*

2. The Committee considered the draft of the Fourth Report and adopted the same.

3. The Committee authorised the Chairman and in his absence Shri Sinhasan Singh, to present the Report to the House.

4. The Committee then adjourned *sine die.*

1636 (E) LS—6.